

BILL # HB 2056

SPONSOR: Reagan

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TITLE: workers' compensation; truckers; officer escorts

STATUS: As Amended by House TI

FISCAL ANALYSIS

Description

HB 2056, as amended by the House Transportation and Infrastructure Committee, would require any interstate motor carrier domiciled outside of the state to provide satisfactory proof to the Industrial Commission that the employer has workers' compensation that would be responsible for workers' compensation liabilities that arise in this state. Currently, out of state motor carriers must have policies from a company authorized to write insurance in this state or prove that they can pay the claims directly. The bill also requires any entity that contracts an off-duty peace officer employed by the state for any type of work to reimburse the officers' employing agency for workers' compensation premiums and time served by the officer.

Estimated Impact

The bill's off-duty officer provisions are not anticipated to result in an impact as the bill requires the private company which contracts the work of an off-duty peace officer to reimburse the officers' employing agency for workers' compensation premiums and time served. The bill could, however, result in a cost to the state if: 1) a peace officer files a workers' compensation claim as a result of work performed for the private entity and the private company's workers' compensation insurance carrier denies the claim, the bill may result in a cost to the state, or 2) the private entity fails to reimburse the state for the personal services and employee benefit costs associate with the work performed. At this time, the magnitude and/or frequency of this occurrence is unknown.

The Department of Public Safety (DPS) estimates that the department would have to pay about \$10.9 million in upfront costs annually as a result of the bill. The intent of the bill, however, is that the department and any other agency that allows its off-duty officer to work for other entities would be fully reimbursed for these costs.

The Industrial Commission estimates that the bill would have an impact on the agency's non-appropriated Special Fund if the agency is not fully reimbursed by out of state trucking companies. The size of any impact is unknown at this time because the number of workers' compensation claims filed by those companies that would not have insurance through an Arizona-authorized company and the extent to which the fund would be reimbursed is unknown.

Analysis

Pursuant to A.R.S. § 23-961, an employer must provide workers' compensation for its employees either through an insurance carrier authorized by the Department of Insurance to write workers' compensation insurance in this state or by providing proof to the Industrial Commission that any claim can be paid directly by the employer. HB 2056 would change this requirement by allowing out of state trucking companies to operate in Arizona without workers' compensation insurance from an insurance company licensed in Arizona. The company, however, would need to provide proof to the Industrial Commission that they have workers' compensation insurance and any workers' compensation liabilities that arise would be covered.

Currently, if an employee files a workers' compensation claim and the employer does not have workers' compensation insurance, the claim is processed and paid by the Industrial Commission's Special Fund. According to the Industrial Commission, if an employee of an out of state trucking company that is not insured through an Arizona-authorized company files a workers' compensation claim in Arizona, the claim would be treated as if the company is uninsured and

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would be processed and paid out of the Special Fund. The fund's liability would include medical and indemnity benefits paid to the worker, the administrative costs to process and pay the claim, and any legal costs associated with the claim. However, the employer would be responsible for reimbursing the Special Fund for any costs associated with claim. The impact to the Special Fund would then depend on if and when the fund is fully reimbursed.

Currently, A.R.S. § 41-805 allows off-duty peace officers to engage in law enforcement work such as traffic control, escorting oversized loads and providing security services for employers other than the officers' state department or agency. Currently, the entity employing the off-duty officer would pay the officer for services directly. HB 2056 would instead require the entity to reimburse the state department or agency for the use of the officer, meaning the state agency would have to pay the cost upfront. The Department of Public Safety, the Department of Corrections, the Department of Liquor, the Arizona Game and Fish Department, and the Universities as well as various local agencies all employ certified peace officers that would be eligible to provide these off-duty services. These upfront costs for an officer's work for other entities would come out of a variety of funds, including the General Fund. There may be a cost to the state if the agency is not reimbursed in the same fiscal year the job is performed or if the outside entity fails to reimburse the agency.

As an example of the potential fiscal impact, DPS officers participated in 19,795 off-duty jobs last year with an average of 8 hours worked per job for an estimated total of 158,400 personnel hours. The average overtime rate for Officer I, II, and III and Sergeant I and II positions is \$45.86 per hour and employee related expenses are currently about 50% of total pay. As a result, DPS would have had to pay about \$10.9 million up front.

Additionally, the entity hiring an off-duty officer is only required to reimburse the state agency for the workers' compensation premiums associated with that officer. If the officer files a workers' compensation claim for an incident that occurred while working off-duty, it could result in additional costs to the state because the bill does not require companies to reimburse the state for any additional costs associated with a claim. Anecdotal evidence from DPS, which is based on information from the Arizona Attorney General, suggests that once the department is liable for an off-duty officer, the officer would technically be considered on-duty and be eligible for all associated benefits.

Local Government Impact

None

3/3/09